# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

SNMP RESEARCH, INC. and SNMP RESEARCH INTERNATIONAL, INC.,	§ 8	Case No. 3:20-cv-00451-CEA-DCP
, ,	§ §	
Plaintiffs,	§ §	
v.	§	Jury Demand
BROADCOM INC.; BROCADE	§ §	
COMMUNICATIONS SYSTEMS LLC;	§	
AND EXTREME NETWORKS, INC.,	§	
	§	
Defendants.	§	
	§	

# PLAINTIFFS' MOTION TO CHALLENGE EXTREME'S CONFIDENTIALITY DESIGNATIONS

COME NOW the Plaintiffs, SNMP Research, Inc. ("SNMP Research") and SNMP Research International, Inc. ("SNMP International" and, together with SNMP Research, "Plaintiffs"), by and through counsel, pursuant to the Amended and Restated Protective Order entered in this case (Dkt. 335)(the "Protective Order") and the Court's direction of October 27, 2023, hereby move this Honorable Court to compel Defendant Extreme Networks, Inc. ("Extreme") to redesignate certain documents it has produced in discovery as HIGHLY CONFIDENTIAL, pursuant to the Protective Order, as is further specified in Plaintiffs' Memorandum of Law submitted contemporaneously with this Motion. In support of this Motion, Plaintiffs further state as follows:

1. This Court previously entered a protective order, which was agreed to by the parties, (Dkt. 93) and entered the current Protective Order on November 23, 2023. Dkt. 335.

- 2. The Protective Order permits parties to designate information produced in discovery as "CONFIDENTIAL"; "HIGHLY CONFIDENTIAL"; "OUTSIDE COUNSEL EYES ONLY"; and "HIGHLY CONFIDENTIAL SOURCE CODE RELATED MATERIALS".
- 3. Extreme has designated certain financial documents that it produced in discovery as OUTSIDE COUNSEL EYES ONLY, or "OCEO".
- 4. These documents are Bates-numbered as EXTREME-00722215; EXTREME-00722446; EXTREME-00722447; EXTREME-00722448; EXTREME-00722450; EXTREME-00722451; EXTREME-00871502; EXTREME-00871503; EXTREME-01290740; EXTREME-01290741; EXTREME-01290742; EXTREME-01290743; EXTREME-01290744 (attached to the Declaration of Rameen J. Nasrollahi as Collective Exhibit 1) and EXTREME-01407577; EXTREME-01407578; and EXTREME-01407580 (attached to the Declaration of Rameen J. Nasrollahi as Collective Exhibit 2)(all together, the "Financial Documents").
- 5. Plaintiffs previously raised the issue of Extreme's designations of the documents in Collective Exhibit 1 as OCEO.
- 6. After Extreme would not redesignate these documents, Plaintiffs raised this issue informally with the Court.
- 7. On October 27, 2023, the Court directed Plaintiffs to file a motion to challenge Extreme's designations of these documents.
- 8. Subsequently, Extreme produced additional documents containing similar financial information. *See* Collective Exhibit 2 to the Nasrollahi Declaration.
- 9. The designation of all of the Financial Documents is improper because the documents do not meet the definition set out in the Protective Order. *See* Dkt. 335 ¶ 6.

- 10. None of the documents at issue are being disclosed to a competitor, and the potential harm created can be mitigated by a designation of HIGHLY CONFIDENTIAL.
- 11. Additionally, Plaintiffs' inability to view these documents is impairing its ability to evaluate its case against Extreme.
- 12. Furthermore, Extreme's designation of the Financial Documents is routine and indiscriminate, in violation of the Protective Order. *See* Dkt. 335 ¶ 41.
- 13. Plaintiffs ask this Court to strike Extreme's designations of the Financial Documents as OCEO and permit Extreme to redesignate the Financial Documents as HIGHLY CONFIDENTIAL.

WHEREFORE, for the reasons stated herein and in Plaintiffs' accompanying Memorandum of Law, the Declaration of Rameen J. Nasrollahi, and the related exhibits filed in support of this Motion, and as shall be raised at the oral argument of this Motion, if any, Plaintiffs respectfully request that this Honorable Court strike Extreme's designation of the Financial Documents as OCEO.

#### Respectfully submitted,

Dated: March 20, 2024 By: /s/ Rameen J. Nasrollahi

John L. Wood, Esq. (BPR #027642)

Cheryl G. Rice, Esq. (BPR #021145)

Rameen J. Nasrollahi, Esq. (BPR #033458)

EGERTON, McAFEE, ARMISTEAD & DAVIS, P.C.

900 S. Gay Street, Suite 1400

P.O. Box 2047

Knoxville, TN 37902

(865) 546-0500 (phone)

(865) 525-5293 (facsimile)

jwood@emlaw.com

crice@emlaw.com

rnasrollahi@emlaw.com

## By: /s/ A. Matthew Ashley

A. Matthew Ashley (CA Bar. No. 198235)

Morgan Chu (CA Bar. No. 70446)

David Nimmer (CA Bar. No. 97170)

**IRELL & MANELLA LLP** 

1800 Avenue of the Stars, Suite 900

Los Angeles, California 90067-4276

(310) 277-1010 (phone)

(310) 203-7199 (facsimile)

mchu@irell.com

dnimmer@irell.com

mashley@irell.com

### By: /s/ Olivia L. Weber

Olivia L. Weber (CA Bar. No. 319918)

BIENERT KATZMAN LITTRELL WILLIAMS, LLP

903 Calle Amanecer, Suite 350

San Clemente, CA 92673

(949) 369-3700 (phone)

(949) 369-3701 (facsimile)

oweber@bklwlaw.com

Attorneys for Plaintiffs

SNMP Research International, Inc. and

SNMP Research, Inc.